

### **Remarks/Arguments**

#### **Amendments to the Claims**

In the claims, the words “strut member” have been replaced with the word “bar” to more accurately state and clarify the intent of the words as shown in the instant specification and drawings. The priority document for the instant application was filed in Australia using United Kingdom (UK) English. In UK English, for example as defined at [www.askoxford.com](http://www.askoxford.com), strut can be: “noun 1 a bar used to support or strengthen a structure.” It is clear from the specification, for example as explicitly stated at page 11 line 37 to page 12, line 2 that the word “strut” is not intended to imply the resistance to force in any specific direction. Therefore, the claim amendments are fully supported by the instant application and new matter has been added.

#### **Objections to the Claims**

The Examiner objected to the line spacing of the claims. The claims have been submitted in 1.5 spacing as requested by the Examiner.

Applicant courteously requests that the objection be removed.

#### **Rejection of Claims 1-4, 8, 9, 13, 15, 16, 18, 22, 24, 25, 34, 36, and 39-41 under 35 U.S.C. §102(b)**

The Examiner rejected Claims 1-4, 8, 9, 13, 15, 16, 18, 22, 24, 25, 34, 36, and 39-41 under 35 U.S.C. §102(b) as being anticipated by International Publication WO 00/71827A1 (Andrews). Applicant respectfully traverses the rejection.

#### **Claim 1**

##### **Andrews' element 41 does not include a bearing surface**

Amended Claim 1 recites: “the first elongate element comprising: an upper portion which provides an upwardly facing surface to support materials above the beam”

The Examiner cited element 41 of Andrews as teaching the first element is Claim 1. However, element 41 is part of member 40 for use with studs, which are vertical framing

members. Any surfaces shown on element 41 are vertical in use and would not be upwardly facing. That is, no materials would be above the surface and supported by the surface.

Andrews's member 40 is not capable of being used in a load-bearing application

It is well known in the art that metal studs are not designed for or capable of being used for load-bearing applications (having a side supporting loads above the side) and one skilled in the art would never contemplate using metal studs for load-bearing applications. Instead, vertical studs are designed to hold against a shearing load for vertically attached materials.

Andrews does not teach the frame recited for the second element

Amended Claim 1 recites: "wherein the second element is in the form of a frame comprising: .... a first cross member which extends between, and spaces apart respective first ends of the first and second bars, and forms a first transverse member of the frame ; and a second cross member, spaced apart from the first cross member in the direction of elongation of the bars, which extends between, and spaces apart, the first and second bars and forms a second transverse member of the frame and wherein the first and second bars are separately formed pieces."

Assuming *arguendo* that element 41 of Andrews teaches the first element recited in Claim 1, element 42 of Andrews does not teach the structure recited in Claim 1 for the second element. Andrews does not teach a frame with first and second elongate bars. The sides of element 42 are not bars, they are sheet metal pieces. Further, Claim 1 recites the bars as being separately formed pieces. In contrast, element 42 is a single, integral piece or material.

Claim 1 recites cross members for the frame forming transverse members at respective ends of the frame. Element 41 has no cross members or transverse members. In the rejection of Claim 40, discussed *infra*, the Examiner cited "rear web, Figure 7" as teaching cross members recited in Claim 40. However, there is no rear web or cross member shown in Figure 7 of Andrews. Elements 41 and 42 are open-ended, C-shaped, integral pieces.

The recited arrangement for the second (inner) element greatly reduces the contact area between the first (outer) and second (inner) elements, which is a useful advantage as it facilitates withdrawal of the second element and removal of the beam from its working position (as shown in Figs. 9d to 9e). The telescoping twin C-section arrangement as illustrated in Andrews,

intentionally has much greater contact area between the inner and outer elements, for example, as set out at page 16 line 27 to page 17 line 12 of the specification. The recited arrangement also enables a lighter beam, since the rectangular frame may be lighter than a similar length of C-section.

For all the reasons noted above, Andrews does not teach each and every element of Claim 1 and Claim 1 is novel with respect to Andrews. Claims 4, 8, 9, 13, 16, 18, 22, 24, 25, 34, 36, and 39-41, dependent from Claim 1, enjoy the same distinction with respect to Andrews. New Claims 42-44, dependent from Claim 1, also are novel with respect to Andrews.

Claims 2, 3, and 15 have been cancelled.

**Claim 40**

Claim 40 recites: “a top panel, for supporting building materials thereon;” Therefore, the arguments for Claim 1 regarding a bearing surface are applicable to Claim 40 and Andrews does not teach this limitation of Claim 40.

Claim 40 recites a second support element comprising bars; therefore the arguments for Claim 1 regarding bars are applicable to Claim 40 and Andrews does not teach this limitation of Claim 40.

Andrews does not teach cross members

Claim 40 recites: “the second element comprising first and second generally parallel spaced apart bars connected by at least one cross member”

The Examiner cited “rear web, Figure 7” as teaching cross members recited in Claim 40. However, there is no rear web or cross member shown in Figure 7 of Andrews. Elements 41 and 42 are open-ended, C-shaped pieces.

Andrews does not teach support members as recited in the claim

Amended Claim 40 recites: “first and second support portions projecting inwardly from respective inner surfaces of the respective first and second side panels, the support portions being provided on at least one support member, *attached to but formed separately from the side panels* and vertically spaced apart from the bottoms of the side panels” (emphasis added)

The Examiner cited flanges 52 and 53 of Andrews as teaching the support element recited in Claim 40. However, the flanges are integral to the sides of element 41, which the Examiner has cited as teaching the side panels recited in Claim 40; therefore, the flanges do not teach the separate support members recited in Claim 40.

Andrews does not teach the support and slide arrangement recited in the claim

Claim 40 recites: “whereby the first and second bars are supported by the respective first and second support portions and able to slide relative thereto in order to provide relative axial movement of the second element relative to the first element.”

The support portions recited in Claim 40 are formed by support members separate from the first element. As noted *supra*, flanges 52 and 53 are integral to element 41 and therefore, are not separate and attached to the first element. Thus, Andrews does not teach bars supported by and slideable on support portions separate from the first element.

For all the reasons noted above, Andrews does not teach each and every element of Claim 40 and Claim 40 is novel with respect to Andrews.

Applicant courteously requests that the rejection be removed.

Rejection of Claims 5, 6, and 10 under 35 U.S.C. §103(a)

The Examiner rejected Claims 5, 6, and 10 under 35 U.S.C. §103(a) as being unpatentable over International Publication WO 00/71827A1 (Andrews). Applicant respectfully traverses the rejection.

Applicant has shown that Andrews does not each and every element of Claim 1. Andrews also fails to suggest or motivate the elements of Claim 1; therefore, Claim 1 is patentable over Andrews. Claims 5, 6, and 10, dependent from Claim 1, enjoy the same distinction with respect to Andrews.

Applicant courteously requests that the rejection be removed.

**Conclusion**

Applicant respectfully submits that all pending claims are now in condition for allowance, which action is courteously requested.

Respectfully submitted,

/Chester Paul Maliszewski/  
Chester Paul Maliszewski  
Registration No. 51,990  
Simpson & Simpson, PLLC  
5555 Main Street  
Williamsville, NY 14221-5406  
Telephone No. 716-626-1564

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